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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/692,442	10/23/2003	Wayne H. Whittaker	UNS-103-B	8021
7590 Todd L. Moore YOUNG & BASILE, P.C. Suite 624 3001 West Big Beaver Road Troy, MI 48084-3107			EXAMINER GILBERT, WILLIAM V	
			ART UNIT 3635	PAPER NUMBER
			MAIL DATE 01/28/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/692,442	Applicant(s) WHITTAKER ET AL.	
	Examiner William V. Gilbert	Art Unit 3635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 November 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 4-6 and 11-16 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 7-9, 17-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

This is a Final Office Action addressing the response dated 19 November 2007. Claims 1-20 is/are pending. Claims 4-6 and 10-16 is/are withdrawn from consideration. Claims 1-3, 7-9 and 17-20 is/are examined.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 7 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Cristy (U.S. Patent No. 4,074,474).

Claim 1: Cristy discloses an apparatus for leveling (Fig. 6) comprising rigid enclosure connectable to a machine foundation, the enclosure having an substantially hollow upper portion (180, 182, 186, 188; portions 186 and 188 help form the hollow enclosure) and a hollow lower portion (142, 144, 150, 160, 183: the hollow enclosure is formed by the upper and lower portion which houses the support member 172 and space formed by

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cylinder 142 and bearing member 14), and means (70, 174, 184) for fixedly connecting the upper and lower portions, and means for providing a leveling adjustment (172).

Claim 2: the means for fixedly connecting comprises the upper portion having at least one flange (182) having an aperture extending there through (proximate 184), the lower portion having an anchor ring (see Fig. 5: 183) with a rod (184) connected to thereto and extending through the aperture in the flange of the upper portion and a slip joint (184: the nut and bolt connection) connected to the flange of the upper portion for connecting the rod to the flange.

Claim 3: the lower portion has an anchor ring (Fig. 5: 183) that extends into the interior of said enclosure, a bearing member (14) disposed within the enclosure and adjustably connected to the anchor ring (through member 180 via 184: the adjustability is via the support member), and a support member (172) in contact with the bearing member (via portion 142) and engageable with the substructure (168, 12) for isolating the machine foundation from the substructure.

Claim 7: the support member is removably disposed between the bearing member (14) and substructure (168). The phrase "may be replaced with other support members" provides no structural

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limitation and the prior art of record is capable of meeting the limitation.

Claim 8: the support member (172) is an inflatable air bag.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 9 and 17-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cristy.

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Claim 9: Cristy discloses an apparatus comprising a rigid enclosure connectable to a machine foundation, the enclosure has a substantially hollow upper portion (180, 182, 186, 188; portions 186 and 188 form the hollow enclosure), and a lower portion (142, 144, 150, 160, 183: the hollow enclosure is formed by the upper and lower portion which houses the support member 172 and space formed by cylinder 142 and bearing member 14) connected to one another to provide for various sizes, the lower portion has an anchor ring (Fig. 5: 183) that extends into the interior of the enclosure, a bearing member (14) within the enclosure above the anchor ring, and a support member (172) in contact with the bearing member and engageable with the substructure (168, 12) for isolating said machine foundation from the substructure. Christy does not disclose a plurality of fasteners to connect the bearing member to the anchor ring. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to use fasteners (such as nails) to connect the ring to the bearing member because fasteners are well known in the art as a means for attachment. the language "for vertical adjustment...machine foundation" lines 11-13 is a statement of intended use of the claimed invention and must result in a structural difference between the

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claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

Claim 17: the support member is adaptable to be removable between the bearing member and substructure and the support member is replaceable.

Claim 18: the support member is an inflatable air bag.

Claim 19: a conduit (174, 70) is coupled to and in communication with the air bag (172) and is communicable with a pressurized air source (Col. 5, lines 55-60).

Claim 20: the conduit extends through the substructure (12) and into the enclosure and communicates with the air bag.

Response to Arguments

3. The following addresses applicant's remarks dated 19 November 2007.

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection as the claims are amended by the applicant.

Regarding applicant's arguments addressing "fixedly connecting" (remarks page 8), the examiner respectfully

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disagrees that the prior art no longer anticipates or is obvious to the claims. By claiming the limitation "fixedly connecting", the limitation means that the two are connected, not that the two are connected and not movable relative to one another, as what appears to be the intent of the applicant.

Further, applicant's amendment to claim that the anchor ring extends into the in enclosure, the prior art as claimed comprises an enclosure formed by the upper and lower portions; therefore the anchor ring does extend in the enclosure.

Conclusion

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William V. Gilbert whose telephone number is 571.272.9055. The examiner can normally be reached on Monday - Friday, 08:00 to 17:00 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on 571.272.6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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16 Jan 07

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